

Remarks

[0001] Applicant respectfully requests reconsideration and allowance of all pending claims of the application. Claims 1-29 and 31-35 are presently pending. Claims amended herein are 1, 10, 11, 14, 20, 28, 29, 31, and 33. Claims withdrawn or canceled herein are claims 30 and 36. New claims added herein are None.

Summary of Interview

[0002] Examiner Hoffman graciously talked with me—the undersigned attorney for the Applicant—on March 13, 2007. Applicant greatly appreciates the Examiners' willingness to talk. Such willingness is invaluable to both of us in our common goal of an expedited prosecution of this patent application.

[0003] In that discussion, I explained what I viewed as the differences between the cited art and the inventions described in the specification, and discussed possible claim amendments. In particular we discussed a proposed amendment to claim 1. In response to a proposed amendment, Examiner Hoffman indicated that an additional search would be performed. Applicant appreciates the Examiner's help in expediting the prosecution of this application.

Formal Request for an Interview

[0004] If the Office's reply to this communication is anything other than allowance of all pending claims, then Applicant formally requests an

interview with the Examiner of this patent application. I encourage the Examiner to contact me—the undersigned attorney for the Applicant—to schedule a date and time for a telephone interview that is most convenient for both of us. Please email me at chrisf@leehayes.com. Should you contact me by email, please copy my assistant Carly Taylor (carly@leehayes.com) as well. While email works great for me, I welcome you to call either of us as well.

Claim Amendments

[0005] Applicant amends claims in accordance with the telephone discussion with the examiner. Such amendments are made to expedite prosecution and quickly identify allowable subject matter.

Claim Objections

[0006] Claim 29 is objected to due to informalities (*Office Action* p.2). Appropriate corrections have been made herein.

Substantive Claim Rejections

35 USC § 112 Claim Rejections

[0007] Claims 20 and 29 are rejected under 35 U.S.C. §112, second paragraph, a being indefinite. More specifically, the Examiner indicated that the term “attempting to” is vague and indefinite (*Office Action* p. 2).

[0008] Claims 20 and 29 have been amended herein to remove the language objected to by the Office. Accordingly, Applicant requests that the §112 rejection be withdrawn.

35 U.S.C. §101 Claim Rejections

[0009] Claims 1-25 are rejected under 35 U.S.C. 101 as being directed to non-statutory subject matter (Office Action p.3). Appropriate correction has been made herein.

Double Patenting Claim Rejections

[0010] Claims 1, 4, and 6-29 are provisionally rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 1-26 of co-pending Application No. 10/632,887 (*Office Action* p. 4).

[0011] Applicant is filing a terminal disclaimer in compliance with 37 CFR 1.321(c) along with this response to overcome the provisional rejection based on nonstatutory double patenting.

35 USC § 102 Claim Rejections

[0012] Claims 1-29 and 31-36 are rejected under 35 U.S.C. §102(e) as being anticipated by U.S. Patent Application Publication No. 2003/0182574 to Whitten et al. (hereinafter, "Whitten") (*Office Action* p. 6).

[0013] Applicant respectfully traverses the rejections, and requests reconsideration and allowance in light of the comments and amendments contained herein. Accordingly, Applicant requests that the rejections be withdrawn and that the case be passed along to issuance.

[0014] **Claim 1** recites an apparatus comprising:

- a media including game content; and
- a data protection portion that includes:

- a file alteration checking portion which protects the media from modification of the game content by determining whether the game content has been modified, and if the game content has been modified, then installation of the game content within the apparatus fails; and

- a media type checking portion for checking whether the media is as expected for an original media that has not been copied by reading a media type used flag from an executable located on the media, wherein the media type used flag indicates a type of media that the executable should be contained within, and if the type of media of the executable is not as expected, then installation of the game content within the apparatus fails.

[0015] In order for Whitten to anticipate this claim, Applicant submits that Whitten must disclose each and every element and feature of the claim and that they must be arranged in the same manner as the claim. Applicant respectfully submits that Whitten does not disclose all of the claimed elements and features of claim 1. For example, Whitten does not show or disclose "a media type checking portion for checking whether the media is as expected for an original media that has not been copied by reading a media type used flag from an executable located on the media,

wherein the media type used flag indicates a type of media that the executable should be contained within, and if the type of media of the executable is not as expected, then installation of the game content within the apparatus fails", as recited in claim 1.

[0016] Instead, Whitten describes that a section digest is determined for each section of the digital data and that a data digest is calculated using these section digests (*Whitten*, [0052]-[0053]). Whitten then describes creating a header which includes the section digests and which can include other information such as the media type (*Whitten*, [0052]-[0058]). A header digest is then determined for the header using a predefined procedure and is encrypted using a private key (*Whitten*, [0049]-[0053] and Fig. 4). To recover the header digest and check whether the digital data has been altered, the encrypted header digest is decrypted using a public key (*Whitten*, [0053]). A confirmation digest of the header is determined and compared with the header digest that was recovered by the decrypting, to determine whether the header that was distributed with the digital data has been altered (*Whitten*, [0057]). If the two header digests match, then the console reads the header for security information and determines whether the media type written in the header matches the media type detected (*Whitten*, [0058]). Whitten compares a decrypted header digest to a confirmation digest, and if the two digests match then may read header security policy information from the decrypted header digest. The header security policy information may

include types of media that the game console is authorized to access (*Whitten*, [0051]-[0058]).

[0017] In contrast, claim 1 recites “a media type checking portion for checking whether the media is as expected for an original media that has not been copied by reading a media type used flag from an executable located on the media, wherein the media type used flag indicates a type of media that the executable should be contained within, and if the type of media of the executable is not as expected, then installation of the game content within the apparatus fails” (Emphasis Added). *Whitten* does not describe checking whether the media is as expected for and an original media that has not been copied by reading a media type used flag from an executable located on the media.

[0018] Accordingly, claim 1 is allowable over *Whitten* for at least these reasons, and Applicant respectfully requests that the §102 rejection be withdrawn.

[0019] **Claims 2-19** are allowable by virtue of their dependency upon claim 1 (either directly or indirectly). Additionally, some or all of claims 2-19 may be allowable over *Whitten* for independent reasons. For example:

[0020] **Claim 10** recites the “apparatus of claim 1, wherein the media type allowed flag also indicates whether a media type check should be performed”. *Whitten* says nothing about reading a media type allowed

flag from an executable which also indicates whether a media type check should be performed.

[0021] **Claim 20** a method comprising:

checking whether a type of media containing a file is as expected for media that has not been copied by reading a media type used flag from an executable located on the media, wherein the media type used flag indicates a type of media that the executable should be contained within if the media is original, and if the type of media of the executable is not as expected, then installation of the file fails, and if the media type of the executable is as expected, then:

comparing an actual signature of a table of contents from a media with an expected signature of the table of contents to determine whether contents of the file have been altered; calculating an actual signature based on reading clusters of data from the media, and comparing the actual signature with an expected signature found in the table of contents for every cluster of data read to determine whether contents of the file have been altered; and

installing the file when both the actual signature of the table of contents from the media matches the expected signature of the table of contents, and the actual signature which was calculated matches the expected signature found in the table of contents for every cluster of data read.

[0022] In order for Whitten to anticipate this claim, Applicant submits that Whitten must disclose each and every element and feature of the claim and that they must be arranged in the same manner as the claim. Applicant respectfully submits that Whitten does not disclose all of the claimed elements and features of claim 20. For example, Whitten does not show or disclose "checking whether a type of media containing a file is as expected for media that has not been copied by reading a media type used

flag from an executable located on the media, wherein the media type used flag indicates a type of media that the executable should be contained within if the media is original, and if the type of media of the executable is not as expected, then installation of the file fails", as recited in claim 20. Further Whitten does not show or disclose "and if the media type of the executable is as expected, then: comparing an actual signature of a table of contents from a media with an expected signature of the table of contents to determine whether contents of the file have been altered; calculating an actual signature based on reading clusters of data from the media, and comparing the actual signature with an expected signature found in the table of contents for every cluster of data read to determine whether contents of the file have been altered", as recited in claim 20.

[0023] Instead, as presented in response to the rejection of claim 1, Whitten describes that a confirmation digest of the header is determined and compared with the header digest that was recovered by the decrypting, to determine whether the header that was distributed with the digital data has been altered (*Whitten*, [0057]). If the two header digests match, then the console reads the header for security information and determines whether the media type written in the header matches the media type detected (*Whitten*, [0058]).

[0024] Whitten does not describe checking whether a type of media containing a file is as expected for media that has not been copied by

reading a media type used flag from an executable located on the media, as recited in claim 20. Further, Whitten does not describe that "if the media type of the executable is as expected: then comparing an actual signature of a table of contents from a media with an expected signature of the table of contents to determine whether contents of the file have been altered", as recited in claim 20. Instead, Whitten describes that if the two header digests match, then the console reads the header for security information and determines whether the media type written in the header matches the media type detected (*Whitten*, [0058]).

[0025] Accordingly, claim 20 is allowable over Whitten for at least these reasons, and Applicant respectfully requests that the §102 rejection be withdrawn.

[0026] **Claims 21-27** are allowable by virtue of their dependency upon claim 20 (either directly or indirectly). Additionally, some or all of claims 21-27 may be allowable over Whitten for independent reasons.

[0027] **Claim 28** recites a method comprising:

obtaining game content from a media;
protecting the game content from modification, using a file alteration checking portion that determines whether the game content has been modified, and if the game content has been modified, then failing to allow installation of the game content; and
protecting the game content from modification, using a media type checking portion that determines whether the media is as expected for an original media that has not been copied by reading a media type used flag from an executable located on the media, wherein the media type used flag indicates a type of media that the executable should be contained within, and if the type of media of the executable is not as expected, then failing to allow installation of the game content.

[0028] In order for Whitten to anticipate this claim, Applicant submits that Whitten must disclose each and every element and feature of the claim and that they must be arranged in the same manner as the claim. Applicant respectfully submits that Whitten does not disclose all of the claimed elements and features of claim 28. For example, Whitten does not show or disclose "protecting the game content from modification, using a media type checking portion that determines whether the media is as expected for an original media that has not been copied by reading a media type used flag from an executable located on the media, wherein the media type used flag indicates a type of media that the executable should be contained within, and if the type of media of the executable is not as expected, then failing to allow installation of the game content", as recited in claim 28.

[0029] Instead, as described in response to the rejection of claims 1 and 20, Whitten describes that a confirmation digest of the header is determined and compared with the header digest that was recovered by the decrypting, to determine whether the header that was distributed with the digital data has been altered (*Whitten*, [0057]). If the two header digests match, then the console reads the header for security information and determines whether the media type written in the header matches the media type detected (*Whitten*, [0058]).

[0030] Whitten does not describe “using a media type checking portion that determines whether the media is as expected for an original media that has not been copied by reading a media type used flag from an executable located on the media”, as recited in claim 28.

[0031] Accordingly, claim 28 is allowable over Whitten for at least these reasons, and Applicant respectfully requests that the §102 rejection be withdrawn.

[0032] **Claim 29** recites a computer readable media having at least one tangible component and having computer readable instructions that when executed by a processor causes the processor to:

check whether a type of media containing a file is as expected for an original media that has not been copied by reading a media type used flag from an executable located on a media, wherein the media type used flag indicates a type of media that the executable should be contained within, and when the type of media of the executable is as expected, then:

compare an actual signature of a table of contents from a media with an expected signature of the table of contents;

calculate an actual signature based on reading clusters of data from the media, and compare the actual signature with an expected signature found in the table of contents for every cluster of data read; and

install the file when both the actual signature of the table of contents from the media matches the expected signature of the table of contents, and the actual signature which was calculated matches the expected signature found in the table of contents for every cluster of data read.

[0033] In order for Whitten to anticipate this claim, Applicant submits that Whitten must disclose each and every element and feature of the claim and that they must be arranged in the same manner as the claim. Applicant respectfully submits that Whitten does not disclose all of the claimed elements and features of claim 29. For example, Whitten does not show or disclose "check whether a type of media containing a file is as expected for an original media that has not been copied by reading a

media type used flag from an executable located on a media, wherein the media type used flag indicates a type of media that the executable should be contained within, and when the type of media of the executable is as expected", as recited in claim 29.

[0034] Instead, as described in response to the rejection of claims 1 and 20, Whitten describes that a confirmation digest of the header is determined and compared with the header digest that was recovered by the decrypting, to determine whether the header that was distributed with the digital data has been altered (*Whitten*, [0057]). If the two header digests match, then the console reads the header for security information and determines whether the media type written in the header matches the media type detected (*Whitten*, [0058]).

[0035] Accordingly, claim 29 is allowable over Whitten for at least these reasons, and Applicant respectfully requests that the §102 rejection be withdrawn.

[0036] **Claim 31** recites in part:

locating a standard executable on a media, wherein the standard executable includes a media type used flag which indicates a type of media that the executable should be contained within;

determining whether the media type indicated in the executable match that of the media;

[0037] In order for Whitten to anticipate this claim, Applicant submits that Whitten must disclose each and every element and feature of the

claim and that they must be arranged in the same manner as the claim. Applicant respectfully submits that Whitten does not disclose all of the claimed elements and features of claim 31. For example, Whitten does not show or disclose "locating a standard executable on a media, wherein the standard executable includes a media type used flag which indicates a type of media that the executable should be contained within", and "determining whether the media type indicated in the executable match that of the media", as recited in claim 31.

[0038] Instead, as presented in response to the rejection of claims 1 and 20, Whitten describes that a confirmation digest of the header is determined and compared with the header digest that was recovered by the decrypting, to determine whether the header that was distributed with the digital data has been altered (*Whitten*, [0057]). If the two header digests match, then the console reads the header for security information and determines whether the media type written in the header matches the media type detected (*Whitten*, [0058]).

[0039] Whitten does not describe "locating a standard executable on a media, wherein the standard executable includes a media type used flag which indicates a type of media that the executable should be contained within" and "determining whether the media type indicated in the executable match that of the media", as recited in claim 31.

[0040] Accordingly, claim 31 is allowable over Whitten for at least these reasons, and Applicant respectfully requests that the §102 rejection be withdrawn.

[0041] **Claims 33-35** are allowable by virtue of their dependency upon claim 31 (either directly or indirectly). Additionally, some or all of claims 33-35 may be allowable over Whitten for independent reasons.

Dependent Claims

[0042] In addition to its own merits, each dependent claim is allowable for the same reasons that its base claim is allowable. Applicant submits that the Office withdraw the rejection of each dependent claim where its base claim is allowable.

Conclusion

[0043] All pending claims are in condition for allowance. Applicant respectfully requests reconsideration and prompt issuance of the application. If any issues remain that prevent issuance of this application, the Office is urged to contact the undersigned attorney before issuing a subsequent Action.

Respectfully Submitted,

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